

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of JAMES EDWARD TWIGGS, III,  
LAURA DANIELLE TWIGGS and STEVEE  
NICHOL TWIGGS, Minors.

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FAMILY INDEPENDENCE AGENCY,  
  
Petitioner-Appellee,

UNPUBLISHED  
June 24, 2003

v

NINA IRENE TWIGGS,

No. 242655  
Wayne Circuit Court  
Family Division  
LC No. 00-394241

Respondent-Appellant,

and

JAMES E. TWIGGS and MARK BEACH,

Respondents.

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Before: Sawyer, P.J., and Meter and Schuette, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating her parental rights to her children pursuant to MCL 712A.19b(3)(c)(i), (g) and (j).<sup>1</sup> We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E)(1)(b).

**I. FACTS**

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<sup>1</sup> The trial court's order also terminated the parental rights of respondent James E. Twiggs, the legal father of James Edward Twiggs and Stevee Nichol Twiggs. Twiggs died on July 7, 2001, during the course of these proceedings. The trial court's order also terminated the parental rights of respondent Mark Beach, the putative father of Laura Danielle Twiggs. Beach has not appealed the order. A fourth child, Mary Whitlock (DOB 10-30-84), was originally involved in the proceedings; however, the trial court did not terminate respondent's parental rights to her. The father of Mary Whitlock was not a party to the proceedings.

The family first came to the attention of the Family Independence Agency (FIA) when FIA learned that the family was homeless and living in a van and motel rooms. In November, 2000, the police found the children alone in a motel room. The FIA filed a petition seeking temporary custody of the children. The petition alleged that the family was homeless and that the children were not attending school. The trial court subsequently made the children temporary wards and ordered respondent to submit to random drug screens, submit to an evaluation by the court's clinic for child study and visit the children.

The trial court held subsequent reviews in February and March 2001. Evidence showed that respondent had submitted three negative drug screens. The court ordered respondent to attend parenting classes, obtain suitable housing and participate in domestic violence counseling and family therapy. The evidence showed at a dispositional review hearing in June, 2001, that respondent completed parenting classes, but did not visit the children regularly. The court continued its previous orders.

The trial court held a dispositional review hearing in September. The court was informed that respondent James Twiggs died on July 1, 2001 after suffering a heart attack. The evidence showed that respondent was unemployed and living with a friend. She received disability income and hoped to receive her husband's life insurance benefits. The evidence showed respondent tested positive for cocaine on August 1, 2001.

Respondent did not attend the court's December 3, 2001, dispositional hearing. The evidence showed that respondent did not have suitable housing and had submitted one negative drug screen since the last hearing. The evidence also showed that respondent had been dealing with substance abuse issues for nearly two years. The trial court adjourned and continued the hearing, when respondent's presence was secured. She told the court that she received \$52,500 in unencumbered life insurance proceeds the previous day and was scheduled to begin an inpatient substance abuse program three days later.

In February 2002, the FIA filed a petition to terminate respondent's parental rights that alleged respondent failed to comply with the court ordered parent-agency agreement. In March, the trial court was informed that respondent had actually only received between \$25,000 and \$30,000 in insurance proceeds. Respondent also received \$325 per month in a death benefit for one year.

The trial court held a permanent custody hearing in June 2002. Melissa LaRosse, a foster care worker, testified that respondent did not comply with the parent-agency agreement. Respondent submitted seven of fifty-two required drug screens in 2001. One was positive for cocaine. In 2002, respondent submitted six of twenty-five drug screens. Three were positive for cocaine or codeine. Respondent completed an inpatient substance abuse program, but did not attend the required after-care program. She attended a less restrictive after-care program. Respondent did not attend either domestic violence or individual counseling on a consistent basis. Respondent did not obtain suitable housing. She changed residences frequently and at one point lived with drug dealers. Respondent visited the children on a fairly regular basis, but did not progress to unsupervised visitations because she did not comply with the parent-agency agreement and did not have a suitable residence for such visitations. Respondent had completed parenting classes and was employed at McDonald's.

Respondent earned approximately \$420 per month at McDonald's and planned to keep her employment. She stated that she received disability benefits totaling \$599 per month for depression and injuries sustained in an automobile accident. She noted that she would receive \$325 per month in death benefits until May 2003. Respondent said that she was attempting to save money to secure housing. She noted that her late husband left her burdened with approximately \$500,000 in debt. She stated that she received approximately \$20,000 in insurance proceeds, but only had \$500 left. She admitted to having used some of the funds to buy cocaine.

## II. TERMINATION OF PARENTAL RIGHTS

### A. Standard of Review

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). This Court reviews the trial court's findings of fact for clear error. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record is left with a definite and firm conviction that a mistake has been made. *Id.* Regard is given to the special ability of the trial court to judge the credibility of the witnesses who appeared before it. *Id.*

### B. Analysis

Respondent's parental rights were terminated under MCL 712A.19b(3)(c)(i),(g) and (j), which provide for termination of parental rights where clear and convincing evidence establishes the following:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

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(g) The parent, without regard to intent, fails to provide proper care of custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the age of the child.

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(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

With regard to the proper care and custody of the children, the children were removed from respondent's custody because the family was homeless and the children were not attending school. At the permanent custody hearing, the evidence showed that respondent had not substantially complied with the parent-agency agreement. She had not secured suitable housing, in spite of having received insurance proceeds that would have allowed her to do so. Respondent's failure to deal with her substance abuse problem and inability to secure housing show the reasonable likelihood of harm done to the children if returned to respondent.

Based on the foregoing evidence, the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, *supra* at 337.

### III. BEST INTERESTS OF THE CHILDREN

#### A. Standard of Review

Once petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court is required to order termination of parental rights unless the court finds from evidence on the whole record that termination is clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision regarding the children's best interests is reviewed for clear error. *Id.*

#### B. Analysis

Respondent was offered various services, but did not make constructive use of those services. Respondent's failure to comply with the parent-agency agreement was evidence that the return of the children to her custody could cause a substantial risk of harm to the children. Respondent has failed to deal with her substance abuse problem. The evidence shows respondent's inability to secure housing and stability for the children.

Therefore, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 356-357. Thus, the trial court did not err in terminating respondent-appellant's parental rights to the child.

Affirmed.

/s/ David H. Sawyer

/s/ Patrick M. Meter

/s/ Bill Schuette